

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ALISHA L. ELDER,**

**Plaintiff,**

**v.**

**DELAWARE COUNTY JAIL**

**Defendant.**

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**Case No. 2:22-cv-3937**

**Chief Judge Algenon L. Marbley**

**Magistrate Judge Elizabeth P. Deavers**

**ORDER**

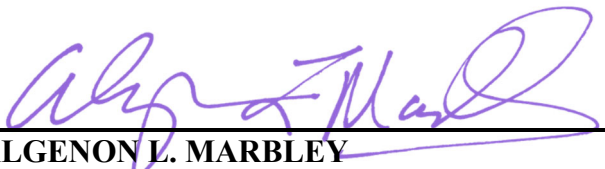
This matter is before this Court on the Magistrate Judge’s Report and Recommendation (“R&R”) recommending that this Court dismiss Ms. Elder’s *pro se* civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 4). Petitioner, a prisoner at the Delaware County Jail, commenced this action *in forma pauperis* alleging: (1) she was denied medical care for more than forty days; (2) she was denied the opportunity to attend court hearings on three occasions due to a shortage of jail staff, legal materials, and confidential phone calls with her attorney; and (3) she was twice retaliated against for reporting a Prison Rape Elimination Act (“PREA”) incident. (*Id.* at 3). The Magistrate Judge recommended that this Court dismiss Plaintiff’s Complaint because the Delaware County Jail is not an entity capable of being sued and Plaintiff’s conclusory claims insufficiently pled a violation of her constitutional rights and a failure-to-train claim. (*Id.* at 4). The Magistrate Judge, however, recommended that this Court grant Plaintiff leave to file an Amended Complaint. (*Id.*).

The R&R was issued on November 21, 2022 and advised Plaintiffs that she had fourteen days to raise any objections. (*Id.* at 5–6). The R&R also notified her that a failure to object within the applicable time period would result in a waiver of the right to have the district judge review the R&R *de novo*. (*Id.* at 5).

This Court has reviewed the R&R. Noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, this Court **ADOPTS** the R&R (ECF No. 4) as this Court's findings of facts and law. This matter is **DISMISSED without prejudice**, but Plaintiff is **GRANTED LEAVE TO FILE** an Amended Complaint to correct the deficiencies within twenty-eight (28) days of this Order. If Plaintiff fails to file an Amended Complaint, this Court will dismiss this action in its entirety.

Further, in accordance with this Court's ruling, Plaintiff's Motion to Appoint Counsel is **HELD IN ABEYANCE** pending Plaintiff's decision to file an Amended Complaint. (ECF No. 5).

**IT IS SO ORDERED.**

  
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**ALGENON L. MARBLEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**DATED: July 12, 2023**